

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CASE NO.: **FAO NO.561 OF 1987**

DATE OF DECISION: September 6, 2006

TULSI DASS GUPTA

...APPELLANT

VERSUS

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ASHUTOSH MOHUNTA.

PRESENT: MR. DEEPAK SURI, ADVOCATE FOR THE APPELLANTS.
MR. ASHISH KAPOOR, ADDL.A.G., HARYANA.
MR. S.S. AULAKH, ADVOCATE
FOR THE INSURANCE COMPANY.

ASHUTOSH MOHUNTA, J. (ORAL)

The appellant Tulsi Dass Gupta has filed the present appeal against the judgement of Motor Accident Claims Tribunal, Ambala (for short 'the Tribunal') dated 30.1.1987, by which compensation of Rs.27,000/- only has been awarded to him, on account of death of his daughter Ms. Jai Devi Gupta, who died in a motor accident.

Briefly the facts of the case are that on 25.10.1985, Ghanshyam Gupta was travelling in a Haryana Roadways bus bearing No.HRX-1606. She boarded the bus from Chandigarh at about 4.45 A.M. and was going to Delhi. At about 5.40 A.M. when the bus reached near the Oberoi Petrol Pump in Ambala City and as soon as it crossed a small bridge, a truck being driven by Gurpal Singh came from the opposite side and dashed against the bus on its right hand side. As a result of the accident, the bus overturned and fell in ditch on the side of the road and Ms. Jai Devi Gupta, died.

The appellant who is the father for the deceased Ms. Jai Devi Gupta filed a claim petition claiming a compensation of Rs.2,00,000/- on account of death of Ms. Jai Devi Gupta.

Reply was filed on behalf of the State of Haryana, wherein it was averred that the accident took place because of the rash and negligent driving of the driver of the truck, namely, Gurpal Singh.

A separate written statement was filed by the driver of the truck, who stated that the accident took place because of the rash and negligent driving by the bus driver. He, however, admitted the accident.

Before the Tribunal, the question was whether the accident took place because of the rash and negligent driving of the driver of the truck No.PJV-3090, driven by Gurpal Singh or by the rash and negligent driving of the driver of the bus bearing No.HRX-1606 driven by Ranbir Singh. One of the claimants Satish Kumar, who appeared as PW-14, stated that the accident took place because of the rash and negligent driving of the truck driver. However, Girdhari Lal, PW3 and Vinod Kashyap, PW10, deposed that the accident took place because of the rash and negligent driving of the drivers of both the vehicles as the bus as well as the truck were being driven in a rash and negligent manner.

No cogent evidence was led by the drivers of the bus as well as of the truck. The Tribunal found that accident took place because of the rash and composite negligence of drivers of both the offending vehicles.

A perusal of the testimonies of the eye witnesses who were travelling in the bus, namely, Satish Kumar, Girdhari Lal, Vinod Kashyap makes is abundantly clear that the accident took place because of the rash and negligent driving of drivers of both the truck as well as the bus. Thus, I

uphold the findings of the Tribunal.

It was averred that the deceased Ms. Jai Devi Gupta was 26 years old at the time of her death and was working as a Computer Operator in Technical Teachers Training Institute and was earning a sum of Rs.1361/- per month. Her pay certificate has been exhibited as Ex.A-7. Thus, it stands established that the deceased was earning Rs.1361/- per month. As the deceased was unmarried, therefore, $\frac{1}{3}^{\text{rd}}$ of the aforementioned salary is to be deducted for her personal expenses and rest of the amount would be the contribution to her family. Thus, dependency of the appellant works out to Rs.850/- per month i.e., 10,200/- per annum. As the claimant was approximately 50 years of age, therefore, I apply a multiplier of 14 and accordingly the appellant is held entitled to a compensation of Rs.1,42,800/-. Apart from the aforementioned amount, the appellant is also held entitled to Rs.2200/- for funeral expenses.

As a result of the above discussion, I award a total compensation of Rs.1,45,000/- to the appellant on account of death the deceased, Ms. Jai Devi Gupta. The claimant shall also be entitled to interest at the rate of 8% per annum payable from the date of filing the claim petition till realization.

The insurance company as well as the State of Haryana are held jointly and severally liable to pay the compensation.

The appeal stands disposed of in the above terms.

September 6, 2006
Gulati

(ASHUTOSH MOHUNTA)
JUDGE